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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COXCOM, INC.,

Plaintiff,

v.

HYBRID PATENTS INCORPORATED,

Defendant.

CASE NO. 3:06-CV-07918 MMC

**DEFENDANT'S MOTION TO
TRANSFER UNDER THE "FIRST-
FILED" DOCTRINE**

Date: July 13, 2007
Time: 9:00 a.m.
Judge: The Hon. Maxine M. Chesney
Ctrm: 7

Defendant Hybrid Patents Incorporated ("Hybrid") hereby moves to transfer this case to the Eastern District of Texas under the "First-Filed" Doctrine. More than five months before Coxcom filed the present case, Hybrid filed a patent infringement suit in the Eastern District of

1 Texas against several cable companies including Cox Communications, Inc., the parent
2 corporation of Coxcom (the “First-Filed Case”).¹ The First-Filed Case is pending before Judge
3 Ward. Coxcom’s suit here involves exactly the same patents and issues as are already before
4 Judge Ward in the First-Filed Case.

5 Furthermore, the same patents and the same issues are also involved in a related case
6 entitled Hybrid Patents Incorporated v. Charter Communications, Inc., et al., C.A. No. 2:05-CV-
7 436 TJW, also pending before Judge Ward in the Eastern District of Texas (the “Related Case”).
8 This case was filed more than a year before the present case. To date, substantial discovery has
9 occurred in the Related Case, the claim construction hearing has occurred, and Judge Ward has
10 issued a detailed claim construction order. The Related Case is set for jury trial beginning in July
11 2007.

12 Under the First-Filed Doctrine, Hybrid requests that this Court transfer the present case to
13 the United States District Court for the Eastern District of Texas to be resolved as part of the First-
14 Filed Case.

15 This motion is based upon the accompanying Notice of Motion, Memorandum of Points
16 and Authorities in Support of this Motion, and the Declaration of Michael E. Wilson filed
17 herewith.

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27 ¹ This case is entitled Hybrid Patents Incorporated v. Comcast Corp., Comcast of Dallas,
28 LP, Time Warner Cable Inc., and Cox Communications Inc., C.A. No.: 2:-6-CV-
292 TJW.

1 Dated: June 8, 2007

2 Respectfully submitted,

3 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

4 By

5 /s/

6 DAVID A. DeGROOT

7 Attorneys for Defendant

HYBRID PATENTS INCORPORATED

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